

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 111—Sales/Use Tax—Machinery and Equipment Exemptions

PROPOSED RULE

12 CSR 10-111.011 Machinery, Equipment, Materials, and Chemicals Used or Consumed in Manufacturing, as Defined in Section 144.054, RSMo.

PURPOSE: Section 144.054.2, RSMo, exempts machinery, equipment and materials used or consumed in manufacturing, processing, compounding, mining or producing any product, or used in research and development related to manufacturing, processing, compounding, mining or producing any product from state tax and local use tax, but not local sales tax. This rule explains what elements must be met in order to qualify for these exemptions.

(1) In general, the purchase of machinery, equipment and materials used or consumed in manufacturing, processing, compounding, mining or producing any product or is used in research and development related to manufacturing, processing, compounding, mining or producing any product is exempt from state tax and local use tax, but not local sales tax.

(2) Definition of Terms.

- (A) Equipment—See 12 CSR 10-111.010.
- (B) Fabrication— See 12 CSR 10-111.010.
- (C) Machinery- See 12 CSR 10-111.010.
- (D) Manufacturing— See 12 CSR 10-111.010.
- (E) Mining— See 12 CSR 10-111.010.
- (F) Producing— See 12 CSR 10-111.010.

(3) Basic Application of Exemption.

(A) Pursuant to Section 144.054.2, RSMo, purchases of machinery, equipment, materials and chemicals used or consumed in manufacturing, processing, compounding, mining or producing any product or used in research and development related to manufacturing, processing, compounding, mining or producing any product is exempt from state sales and use tax and local use tax, but not local sales tax.

(B) The exemptions do not require that the owner of the facility be the purchaser to qualify for the exemption or that the purchaser be the one who uses the machinery, equipment and materials in an exempt fashion. All that is required is that the machinery, equipment and materials are used in a tax-exempt manner.

(4) Exempts Examples.

(A) A manufacturing company purchases various pieces of testing equipment to perform research and development on potential future products. The testing equipment for research and development is exempt from state sales and use tax and local use tax,

but not local sales tax, because it is used or consumed in research and development related to manufacturing a product.

(B) A commercial photo developer uses “crop cards” to hold individual negatives in the film developing process; they are discarded after a single use. The developer also uses tape to connect negative strips so that the negatives may be fed through its automatic film developing machinery and equipment. The crop cards and tape are exempt from state sales and use tax and local use tax, but not local sales tax, as materials used and consumed in producing a product.

(C) A manufacturer purchases materials to develop models for research and development for use in designing a new product. The manufacturer may purchase the materials exempt from state sales and use tax and local use tax, but not local sales tax, because they are used in research and development related to manufacturing.

(D) Workers in a manufacturing plant are required to wear safety equipment while producing a product. The safety equipment is exempt from state sales and use tax and local use tax, but not local sales tax, because it is used to produce a product.

(5) Non Exempt Examples

(A) A taxpayer operates a concrete manufacturing plant. The taxpayer purchases dump trucks to haul, to customers, concrete slabs that had been manufactured in its plant. The dump trucks would not qualify for exemption because they are not used in the manufacturing process, but rather, in the shipping process.

(B) A taxpayer creates and sells a nontaxable information service. To develop its service, the taxpayer purchases computer hardware and software. The computer hardware and software do not qualify for the state tax exemption pursuant to section 144.054.2, RSMo, because they are machinery and equipment used in producing a service and not a product.

AUTHORITY: section 144.270, RSMo 2000 and CCS HCS SB 30, enacted by the 94th General Assembly, 2007. Emergency rule filed Aug. ____, 2007, effective Aug. 28, 2007, expires Feb. 23, 2008. Original rule filed Aug. ____, 2007.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Revenue, Legal Services Division, Governmental Affairs Bureau, PO Box 475, Jefferson City, MO 65105-0475. To be considered comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.